

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Michael Kubayanda, Chairman;
Mark Acton, Vice Chairman;
Ann C. Fisher;
Ashley E. Poling; and
Robert G. Taub

Periodic Reporting
(Proposal Two)

Docket No. RM2023-7

NOTICE OF PROPOSED RULEMAKING ON ANALYTICAL PRINCIPLES
USED IN PERIODIC REPORTING (PROPOSAL TWO)

(Issued May 31, 2023)

I. INTRODUCTION

On May 26, 2023, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.¹ The Petition identifies the proposed analytical changes filed in this docket as Proposal Two.

¹ Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Two), May 26, 2023 (Petition).

II. PROPOSAL TWO

Background. The Postal Service Reform Act of 2022² modified and expanded the Postal Service’s ability to enter into interagency agreements (IAAs) to provide property and services to, or on behalf of, other government agencies. Specifically, 39 U.S.C. 3703 for the first time authorizes the Postal Service to enter into agreements with agencies of any state government, local government, or tribal government to provide property or nonpostal services to the public on behalf of such agencies for non-commercial purposes. At the same time, with respect to the Postal Service’s pre-existing authority under 39 U.S.C. 411 to provide property and services to other Federal agencies, the PSRA specifies that “[t]he Postal Service may establish a program to provide property and nonpostal services to other Government [*i.e.*, federal] agencies within the meaning of section 411^[3], but only if such program provides a net contribution to the Postal Service, defined as reimbursement that covers at least 100 percent of the costs attributable” 39 U.S.C. 3704.

Under the PSRA, the Postal Service must submit a report to the Commission after the close of each fiscal year that:

[A]nalyzes costs, revenues, rates, and quality of service for each agreement or substantially similar set of agreements for the provision of property or nonpostal services under section 3703 or the program as a whole under section 3704, and any other nonpostal service authorized under [Chapter 37 of Title 39 of the United States Code], using such methodologies as the Commission may prescribe, and in sufficient detail to demonstrate compliance with the requirements of [Chapter 37 of Title 39 of the United States Code].

² Postal Service Reform Act of 2022 (PSRA), Pub. L. 117-108, 136 Stat. 1127 (2022).

³ Prior to the enactment of the PSRA, the Postal Service’s authority for these agreements was governed by 39 U.S.C. 411, which authorizes the Postal Service to “furnish property and services” to “Executive agencies within the meaning of [5 U.S.C. 105] and the Government Publishing Office....” 39 U.S.C. 411. Section 105 of Title 5 of the United States Code specifies that an “‘Executive agency’ means an Executive department, a Government corporation, and an independent establishment” of the U.S. Government, as those terms are defined in 5 U.S.C. chapter 1. 5 U.S.C. 105.

39 U.S.C. 3705(a). Upon receiving the Postal Service's report and providing an opportunity for public comment, the Commission must make a written determination of compliance. 39 U.S.C. 3705(e).

Because the PSRA was enacted on April 6, 2022 (during FY 2022 Quarter 3), the Postal Service's first report responsive to this new statutory requirement was due December 29, 2022, covering FY 2022. In its report, the Postal Service stated that there were no agreements with state, local, or tribal governments pursuant to 39 U.S.C. 3703 in effect during FY 2022.⁴ Pursuant to 39 U.S.C. 3705(a)(1), the Postal Service provided non-public information on costs and revenue for Federal IAAs that were in effect during FY 2022.⁵ In response to information requests, the Postal Service also provided non-public rate information with respect to Federal IAAs, and publicly reported the number of agreements, as well as the revenue, costs, and contribution for the program as a whole under section 3704.⁶

Because 39 U.S.C. 3704 requires that the Federal IAA program as a whole provide contribution to the Postal Service, *i.e.*, reimbursement that covers at least 100 percent of the costs attributable to such agreements, the Commission sought information in order to better understand the underlying cost models and methodologies used by the Postal Service in calculating and distributing costs to IAAs. FY 2022 ACD at 101. The Commission found that "[b]ased on the Postal Service's responses, it

⁴ Docket No. ACR2022, United States Postal Service FY 2022 Annual Compliance Report, December 29, 2022, at 102 (FY 2022 ACR).

⁵ *Id.* at 102. With respect to quality of service, in Docket No. RM2022-7, the Commission established certain reporting requirements for nonpostal services, including that the Postal Service shall provide quantitative measures of service performance for nonpostal services annually (or, where unavailable, qualitative descriptions). See 39 CFR 3055.25. Specifically for IAAs under 39 U.S.C. 3704, the Commission mandated that the Postal Service report the quality of service for the IAA program as a whole. See *id.* 3055.25(c). The Commission also specified that the reporting requirements shall not go into effect until the beginning of FY 2024 to allow the Postal Service to set service standards and (if needed) file a petition for an exception from reporting pursuant to 39 CFR 3055.3. Docket No. RM2022-7, Order Revising Rules for Periodic Reporting of Service Performance, February 9, 2023, at 16-17 (Order No. 6439).

⁶ Docket No. ACR2022, Annual Compliance Determination Report, FY 2022, May 29, 2023, at 99-102 (FY 2022 ACD).

appears that the underlying cost models and methodologies employed by the Postal Service are, in some instances, underdeveloped.” *Id.* Nevertheless, the Commission found that for purposes of the first compliance review of the overall Federal IAA program under 39 U.S.C. 3705(e)(2), the record reflected that the total reimbursement the Postal Service received from other Federal agencies for services rendered pursuant to IAAs effective in FY 2022 exceeded the total estimated cost associated with providing such services; hence the Federal IAA program as a whole complied with 39 U.S.C. 3704 for FY 2022. *Id.* The Commission directed the Postal Service to develop a proposed methodology (or methodologies) for calculating and attributing costs and revenue to IAAs authorized under 39 U.S.C. 3703 and 3704, and to initiate a rulemaking proceeding to establish such methodology (or methodologies) in accordance with 39 CFR 3050.11 by no later than May 31, 2023. *Id.* at 102. As directed, the Postal Service initiated the instant proceeding.

Proposal. The Postal Service proposes a categorical approach to calculating and attributing costs and revenue to similar types, or groupings, of IAAs. Petition, Proposal Two at 2-3. In its Petition, the Postal Service has applied this categorical approach to the field of currently-existing Federal IAAs, but states that “the creation of new categories as needed in the future is certainly not precluded[,]” and “[l]ikewise, categories can be omitted if all relevant IAAs have expired, and no new agreements replace them.” *Id.* at 3, 7. The Postal Service proposes the following categories and corresponding cost attribution methodologies for the Federal IAAs currently in existence:

- *Retail Services:* The Postal Service defines this category as “encompass[ing] services conducted at the retail counter such as identity verification or Passport acceptance.” *Id.* at 3. For IAAs in this category, the Postal Service proposes multiplying the average length of transactions by an appropriate wage rate to determine the cost-per-transaction. *Id.* at 4. Piggyback, wait time, and miscellaneous time factors would then also be applied, and the unit costs would be multiplied by the total number of transactions to obtain total window service costs. *Id.* Any additional costs, such as advertising, training, and administrative costs, would be included in whole since they are not related to the per-transaction cost

(although the Postal Service states that the total number of hours spent training would be estimated and the appropriate wage rate applied). *Id.* The Postal Service states that revenues within this category can either be a fixed fee or on a per-transaction basis. *Id.*

- *COVID Test Kits:* The Postal Service defines this category as “includ[ing] the total revenue and cost for COVID test kit fulfillment and delivery; including picking, packing, and delivery of the kits.” *Id.* The Postal Service states that this category is unique in having a two-part structure for fulfillment and delivery. *Id.* The Postal Service proposes that times and resources used for fulfillment be “tracked to determine reimbursement through various postal functions,” and that the delivery portion of cost and revenue be captured through regular Postal Service processes in the Cost and Revenue Analysis (CRA) and Revenue, Pieces, and Weight (RPW) reports. *Id.*
- *Addressing and Geospatial Technology Services:* The Postal Service defines this category as including agreements to “provide reports from Postal Service operational data systems, such as ZIP Code or route book information, for use by other agencies.” *Id.* at 4-5. The Postal Service states that the costs attributed to these reports are related to times to initiate, process, review, and disseminate the reports, and that given that these reports are already captured for operational purposes, no time or technology costs for the collection or storage of these reports are proposed to be attributed to these IAAs. *Id.* at 5. The Postal Service states that these reports are automated and incur minimal costs. *Id.*
- *Short Term Rental/Conference and Training Center Services:* The Postal Service defines this category as encompassing agreements that “allow[] other agencies to use space in postal facilities for a few hours to a few days” *Id.* at 5. The Postal Service states that the costs associated with these agreements are direct costs, which may include expenses for labor for room turnover, food, goods and supplies, and transportation. *Id.* The Postal Service proposes to calculate the revenue associated with these agreements by summing the rates and fees charged for services rendered. *Id.*
- *Lease Agreements:* The Postal Service defines this category as “longer term agreements with agencies to occupy space in postal facilities.” *Id.* The Postal Service states that costs for lease agreements include mainly utilities and maintenance for which the Postal Service is responsible as identified in the agreement. *Id.* at 6. Where the leased space is shared between the lessee and the Postal Service, the utility and maintenance costs are proportional to the number of square feet occupied by the

lessee. *Id.* Rental revenue is proposed to be derived from the individual lease agreements. *Id.*

- *Contracting Services:* The Postal Service defines this category as “encompass[ing] those services where the Postal Service provides services to other agencies, largely using Postal Service contractors, with a small amount of work being performed by postal employees.” *Id.* The Postal Service states that many agreements falling into this category are for the provision of Equal Employment Opportunity (EEO) services. *Id.* The Postal Service proposes that the revenues associated with these agreements be derived as outlined in the individual agreements.

III. NOTICE AND COMMENT

The Commission establishes Docket No. RM2023-7 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission’s website at <http://www.prc.gov>. Interested persons may submit comments on the Petition and Proposal Two no later than June 29, 2023. Pursuant to 39 U.S.C. 505, Manon A. Boudreault is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. RM2023-7 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Two), filed May 26, 2023.
2. Comments by interested persons in this proceeding are due no later than June 29, 2023.
3. Pursuant to 39 U.S.C. 505, the Commission appoints Manon A. Boudreault to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Erica A. Barker
Secretary